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EXAMINER

STRANGE, AARON N

ART UNIT	PAPER NUMBER
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2153

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/628,352

Applicant(s)

NODA ET AL.

Examiner

Aaron Strange

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-8,10-17,19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,10-17,19 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. Upon further consideration, the indicated allowability of claim 20, which has been incorporated into claim 19, is withdrawn.

Response to Arguments

2. Applicant's arguments with respect to claims 1,5,7,8,10-12 and 19 have been considered but are moot in view of the new ground(s) of rejection.
3. With regard to claims 2 and 6, and Applicant's assertion that Toomey "teaches recording a history of events" and that this differs from the claimed "transmitting ... an event detection time" (Pages 10-11 of Remarks), the Examiner respectfully disagrees. The "recording" operation taught by Toomey includes transmitting an event detection time to a recipient (the interactions are time stamped and sent to the multi-modal document) (at least Col 5, Line 61 to Col 6, Line 26). It would have been obvious to one of ordinary skill in the art, when made aware of the teachings of Toomey and Suzuki, to send the time stamps along with the operation instructions to any destination that had an interest in recording a history of the conference.

Applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

4. With regard to claim 13, and Applicant's assertion that Applicant traversed that Examiner's taking of Official Notice in the Office actions of 2/16/06 and 6/1/06 (Page 11 of Remarks), the Examiner respectfully disagrees. Applicant has failed to adequately traverse the Examiner's taking of Official Notice in the Office actions of 2/16/06 and 6/1/06.

To adequately traverse a finding of Official Notice, Applicant must *specifically* point out the supposed errors in the Examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. In this case, Applicant has failed to do so. Applicant's statement regarding claim 2 ("this limitation is unique to the present invention") is not a statement indicating why the noticed facts are not common knowledge or well-known in the art. Therefore, the well-known in the art statement has been taken to be admitted prior art.

5. With regard to claims 14-17, and Applicant's assertion that Shio "only discloses a method of operational control of a virtual chalk board" (Page 12 of Remarks), the Examiner respectfully disagrees. Clearly, Shio discloses much more than the operation of a virtual chalkboard, teaching methods for resolving contending requests for at least a chalkboard (Col 9, Line 61 to Col 10, Line 12), chairperson seat, speaker seat, microphones (Col 1, Lines 13-22), platform (Col 10, Lines 23-38). Any contending requests for these resources will be detected at the same chat device destination (the

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contending requests and the instruction to move the chalk piece are will be detected at the requesting destinations) (at least Col 9, Line 61 to Col 10, Line 12).

Shiio also teaches a method for handling contending requests to speak to a user in a room by synthesizing the voices of all speaking users and adjusting the volume of each speaker based on their position in the room (at least Col 11, Lines 25-45). The simultaneous transmissions of each user are also detected at each chat device destination.

Claim Objections

6. Claims 1,5,8,10,11,12 and 19 are objected to because of the following informalities:

- a. Claim 1 contains a typographical error "the image representations ... becomes more varied" in line 28-29. Claims 5,10,11,12 and 19 contain an identical limitation.
- b. Claim 8 contains a typographical error "determines one or the" in line 4.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1,5,7,8,10-12,19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,736,982) in view of Liles et al. (US 5,880,731).

9. In referring to claim 5 and 10-12, Suzuki shows a server controlling the display of avatars on each respective terminal depending of each avatars position and viewing point in a virtual space (see abstract). Suzuki show:

An association table (figure 7, 12E, fig. 5 53A, 53B) that relationally stores a predetermined event (movement vectors) occurring in a chat space with participating chat devices, a plurality of predetermined control instructions(move instructions) (Col 5, Lines 34-49), and a plurality of predetermined different correlated operation instructions that correspond to the predetermined event (move messages) (Col 6, Lines 40-58),

wherein the plurality of predetermined control instructions correspond to a plurality of types of image representations and/or physical representations among the chat devices (move instructions move the view of the user), and the plurality of predetermined different correlated operation instructions correspond to a plurality of different chat device destinations to operate image representation of chat participants that are installed in the chat device destinations (views of all chat participants are updated when others move) (col. 5 lines 50-col. 6 lines 21),

A chat event detector detecting a predetermined event in the chat space, based on the association table (col. 6 lines 1-6, detecting which avatars are moving, have moved into or moved out or a respective avatars viewing space),

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an operation instruction determiner determining the plurality of the different operation instructions for the detected event, based on the association table (col. 8 lines 15- col. 9 line 16, fig. 9a-9f, not all users having the same viewing point, therefore each user receiving a different instructions to display their specific viewing point of the virtual space and the movements therein),

a destination determiner determining the corresponding plurality of the different chat device destinations to be transmitted the determined plurality of the different operation instructions, based on the association table (fig. 5, 53A, 53b, see also col. 8 line 15- col. 9 line 16 for representation of different viewing points of each user within a virtual space),

a transmitter transmitting the determined plurality of the different control instructions and/or determined plurality of the different operation instructions corresponding to the event via a chat system to determined corresponding chat device destinations to operate the image representation of the chat participant that are installed in the chat device destinations (col. 5 lines 50-67).

Suzuki fails to specifically disclose that the image representations and/or physical representations of the chat devices become more varied as the number of chat devices in the virtual chat space increases.

Liles discloses a similar online chat system and teaches providing avatars to each user, which may be customized by the user (at least Col 6, Line 50 to Col 7, Line 17). Each user selected avatar will be displayed when the user is in a chat room (at least Col 7, Lines 7-10). This would have been an advantageous addition to the system

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disclosed by Suzuki since it would have allowed each user to have a personal avatar, making it easier to identify them and perhaps learn characteristics of their personality based on their selected avatar.

Therefore, it would have been obvious to provide personal avatars to each user so the users could be more easily identified. Since each user would have a custom avatar, the image representations and/or physical representations of the chat devices would become more varied as the number of chat devices in the virtual chat space increases.

10. In referring to claim 7, Suzuki shows a controller selecting a plurality of operations instructions that correspond to the events (movement) in the chat space to operations the image representations of the chat participants, based on predetermined conditions when the plurality of the operation instructions occur with the same chat device as a chat device destination, and sending the selected plurality of the operation instructions to the same chat device (col. 9F, col. 9 lines 5-10, plurality of avatars in view).

11. In referring to claim 8, Suzuki shows:

Image representations of chat participant are installed in one of the chat devices, the destination determiner determines on the plurality of the image representations of the chat participant to operate from among the image representations of the participant,

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based on the detected event (col. 7 lines 15-45, based on movement server determines display avatars in eyes view),

The transmitter sends a determined operations instruction including a specification of the image representations of the chat participant to the corresponding chat device destination to operate therein the specified image representation of the chat participant (col. 8 lines 15- col. 9 line 16, fig. 9a-9E shows various view points).

12. Claims 1 and 19 are rejected under the same rationale as claim 5, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

13. Claim 21 is rejected under the same rationale as claim 5, since they recite substantially identical subject matter. All limitations of claim 21 are wholly contained within claim 5.

14. Claims 2 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Liles in further view of Toomey et al. (US 6,119,147).

15. In referring to claims 2 and 6, Suzuki further discloses originating and destination addresses that accompany the instructions when sent (inherent in sending data over a

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network). However, Suzuki fails to specifically disclose sending an event detection time with the instructions and addresses.

Toomey teaches sending an event detection time along with instructions to a recipient in order to record the time the event occurred so a history of a meeting can be developed. This allows users to determine the order of events and replay the meeting (at least Col 6, Lines 5-27). This would have been an advantageous addition to the system disclosed by Suzuki since it would have allowed users of the system to determine the actual time of events occurring during a meeting.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to send an event detection time along with the instructions in order to create a history of events that happened during a meeting, which could subsequently be used, for example, to replay the meeting.

16. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Liles in further view of Applicant's Admitted Prior Art.

17. The Examiner took Official Notice of the following in the Office action of 6/16/2005. Applicant failed to adequately traverse this assertion in the subsequent responses of 2/16/06 or 6/1/06. Therefore, it has been taken that Applicant admits that one of ordinary skill in the art would have known to detect the number of chat participants exceeds a predetermined number, a change in mode of a topic, a statement

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of a chat participant nickname or name, chatting is frequent, and specifying a chat participant image representation.

18. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Liles in further view of Shiio.

Although Suzuki shows substantial features of the claimed invention, Suzuki does not show detecting overlapping events. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Suzuki as evidenced by Shiio.

In an analogous art Shiio shows a virtual conferencing system for displaying animated characters within a virtual space (see abstract, fig. 7) Shiio shows a method for handling a plurality of events which occur at the same time as overlapping events, wherein the operation instruction determiner processes the detected overlapping events according to a specified event processing method (Col 9, Line 61 to Col 10, Line 13; Col 11, Lines 25-45).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Suzuki to employ the feature shown by Shiio, in order to effectively communicate in a virtual space with other user in real world manner which allows users to take turns speaking, thereby allowing everyone in a virtual space to heard.

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19. In referring to claim 15, Shiiio shows overlapping events executed sequentially according to priority (col. 9 lines 65- col. 10 line 5).

20. In referring to claim 16 and 17, Shiiio shows selection criteria for selecting one of a plurality of the detected overlapping events (col. 9 lines 61- col. 10 line 39) according to:

If same event occurs within a specified time period, ignoring second and subsequent occurrence of the same event (col. 9 line 65- col. 10 line 1, lower priority event is not executed in preference for higher priority event),

Selecting a first event within a specified time (selecting event with higher priority),

Selecting one of the detected overlapping events according to a priority assigned to each event in the association table (col. 10 lines 14-23).

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS
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